

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**ERICSSON INC., AND
TELEFONAKTIEBOLAGET LM ERICSSON,**

Plaintiff,

v.

**TCL COMMUNICATION TECHNOLOGY
HOLDINGS, LTD., TCT MOBILE LIMITED,
AND TCT MOBILE (US), INC.,**

Defendant.

Civil Action No. 2:15-cv-00011-RSP

JURY TRIAL

**DECLARATION OF WARREN LIPSCHITZ IN SUPPORT OF
PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION
FOR LEAVE TO AMEND ITS' INVALIDITY
CONTENTIONS**

I, Warren Lipschitz, do state and declare as follows:

I am an attorney with the law firm of McKool Smith PC ("McKool Smith"), counsel for Plaintiffs Ericsson Inc. and Telefonaktiebolaget LM Ericsson. I make this declaration in support of Plaintiff's Response to Defendants' Motion for Leave to Amend Its' Invalidity Contentions. Unless otherwise stated, the matters contained in this declaration are of my own personal knowledge and, if called as a witness, I could and would testify competently to the matters set forth herein.

1. Attached hereto as Exhibit 1 is a true and correct copy of the "GENERAL ORDER ADOPTING MODEL ORDER FOCUSING PATENT CLAIMS AND PRIOR ART TO REDUCE COSTS" downloaded from <http://www.txed.uscourts.gov/page1.shtml?location=general&all=1> on October 22, 2015, showing that the Model Order does not require a plaintiff to reduce claims before defendant's P.R. 3-3 deadline.
2. Attached hereto as Exhibit 2 is a true and correct copy of a letter dated March 6, 2015 accompanying Ericsson's service of infringement contentions setting forth the priority dates of the '931 patent's parent application.
3. Attached hereto as Exhibit 3 is a true and correct copy of TCL's Invalidity Contentions served on May 8, 2015.
4. Attached hereto as Exhibit 4 is a true and correct copy of TCL's First Set of Interrogatories served on May 11, 2015, requesting, among other things, Ericsson's contended priority date of the '931 patent, and served after TCL's May 8, 2015 P.R. 3-3 deadline.

5. Attached hereto as Exhibit 5 is a true and correct copy of an email dated June 2, 2015

from TCL's counsel to Ericsson's counsel proposing for the first time that the parties adopt the model order, served after TCL's May 8, 2015 P.R. 3-3 deadline.
6. Attached hereto as Exhibit 6 is a true and correct copy of Ericsson's Opening Claim Construction Brief filed on August, 14, 2015.
7. Attached hereto as Exhibit 7 is a true and correct copy of an email dated August 26, 2015, from TCL's counsel to Ericsson's counsel serving TCL's amended invalidity contentions, served after Ericsson's opening claim construction brief.
8. Attached hereto as Exhibit 8 is a true and correct copy of an email dated August 28, 2015, from TCL's counsel to Ericsson's counsel dropping all disputed terms of the '931 patent, served two days after TCL's amended invalidity contentions.
9. Attached hereto as Exhibit 9 is a true and correct copy of the Court's opinion in *Arbitron v. Int'l Demographics Inc., et al.*, Civil Action No. 2:06-CV-434, Dkt. 86 (E.D. Tex. Oct. 29, 2008).

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on October 23, 2015 in Dallas, Texas.

/s/ Warren Lipschitz
Warren Lipschitz